

## ADVISORY OPINION 90-5 [1990-5]

The Ethics Commission has received your letter of June 6, 1990 regarding Police Officer (name omitted). You have asked what happens if this officer cannot find alternative employment and whether or not the Commission might review its policy on this matter.

On April 10, 1985, the County Council approved Ethics Commission Regulations regarding outside employment. Section 4.7 of these Regulations states:

“Sworn County police officers and civilian police employees may not hold outside employment involving security duties in the district to which they are assigned as County employees, except as permitted by special waiver granted by the Ethics Commission on a case by case basis.”

In October 1987, the Ethics Commission announced that beginning on June 2, 1988, Section 4.7 would be strictly enforced unless a waiver was granted. Prior to that time, the Commission allowed police officers to remain in existing security related outside employment in the district to which the officer was assigned. The Commission did not approve requests by officers to take new security related jobs which were located in the district to which the officer was assigned. The purpose of this policy was to allow police officers time to phase out existing security related employment which violated the purpose of Section 4.7. Most police officers did, in fact, phase out employment prohibited by Section 4.7. In light of this history, the Ethics Commission concluded that limiting an additional grace period for (the officer’s name) to 60 days was appropriate.

The Commission believes that its policy of strict enforcement of Section 4.7 serves an important purpose. This policy helps preserve public confidence that officers are carrying their official duties in a fair and impartial manner. The policy also acts as a protection for police officers by preventing situations which create conflicts between an officer’s official obligation to protect life and property and the demands of a private employer who is paying for the same services. Based on experience, the Commission has found that the strict application of Section 4.7 has served to accomplish these important purposes.

Waivers to Section 4.7 can only be granted if the requirements of Section 19A-8(b) of the Montgomery County Public Ethics Law are met. That subsection provides:

“After receiving a written request, the Commission may grant a waiver of the prohibitions of subsection 19A-12(b) or section 19A-13 if it finds:

- (1) the waiver is needed to ensure that competent services to the County are timely and available;
- (2) failing to grant the waiver may reduce the ability of the County to hire or retain highly qualified public employees; or
- (3) the proposed employment is not likely to create an actual conflict of interest.”

The Commission is not aware of any evidence in this case which would support a waiver.

The Commission hopes that you will find this letter responsive to your inquiries.

Date of Issue: June 28, 1990